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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/706,982	11/14/2003	Harold W. Spielman	71060-0020	7495
22902	7590	10/05/2004	EXAMINER	
CLARK & BRODY 1750 K STREET NW SUITE 600 WASHINGTON, DC 20006			WILLIAMS, THOMAS J	
			ART UNIT	PAPER NUMBER
			3683	

DATE MAILED: 10/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/706,982

**Applicant(s)**

SPIELMAN, HAROLD W.

**Examiner**

Thomas J. Williams

**Art Unit**

3683

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,9-11 and 14-19 is/are rejected.
- 7) ☒ Claim(s) 2-8,12 and 13 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>2/20/04</u> . | 6) <input type="checkbox"/> Other: ____.  |

### **DETAILED ACTION**

1. Acknowledgment is made in the receipt of the oath and information disclosure statement filed February 20, 2004.

#### ***Specification***

2. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The phrase "means" in line 3 should be removed.

#### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claim 19 is rejected under 35 U.S.C. 102(b) as being anticipated by US 2,879,867 to Rike.

Rike discloses an axle assembly having brakes, the improvement comprising a pump 30, a heat exchanger 37/48 for cooling the heated brake oil.

*Claim Rejections - 35 USC § 103*

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1, 9-11, and 14-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rike in view of US 5,178,238 to Schaeff.

Re-claims 1, 10, and 15-18, Rike teaches a cooling system for brakes in an axle assembly, comprising: an air oil cooler 37/48; a hydraulic pump 30; a fan assembly for cooling the brake fluid (oil); a reservoir 50; a pump drive linked to a transmission (interpreted as a mechanical transmission means 31. However, Rike fails to teach the fan assembly as being a hydraulic fan assembly, i.e. a fan operated by a hydraulic motor.

Schaeff teaches a cooling fan assembly operated by a hydraulic motor. It would have been obvious to one of ordinary skill in the art to have provided the cooling system of Rike with a hydraulically operated fan as taught by Schaeff, thus eliminating the need for either electric motors or gas engines for operating the fan. With regards to claims 15-18, the cooling system of Rike as modified by Schaeff would have been capable for use on a trailer, since the fan no longer requires an engine for operation, and as taught by Schaeff, see column 6 lines 34-37.

Re-claim 9, the system of Rike has a pair of pumps one disposed in structure 15 another disposed in structure 15a.

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Re-claim 11, the pump is driven by a transmission connection linked to the axle assembly.

*Allowable Subject Matter*

7. Claims 2-8, 12 and 13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

*Conclusion*

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Larson et al., Schexnayder, and Ries teaches a brake cooling system.

9. Any inquiries concerning this communication or earlier communications from the examiner should be directed to Thomas Williams whose telephone number is (703) 305-1346. The examiner can normally be reached on Monday-Thursday from 6:30 AM to 4:00 PM. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Lavinder, can be reached at (703) 308-3421. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

TJW

September 21, 2004

THOMAS WILLIAMS  
PATENT EXAMINER

Thomas Williams

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9-21-04